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BOARD OF SUPERVISORS

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June 30, 2015


The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

27 June 30, 2015


PATRICK OZAWA
ACTING EXECUTIVE OFFICER

**AUTHORIZATION TO ACCEPT AND IMPLEMENT A FORTHCOMING STANDARD AGREEMENT
AND FUTURE AGREEMENTS AND/OR AMENDMENTS FROM THE CALIFORNIA DEPARTMENT
OF PUBLIC HEALTH TO SUPPORT THE HEALTH FACILITIES INSPECTION DIVISION FOR THE
PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2021
(ALL SUPERVISORAL DISTRICTS) (3 VOTES)**

SUBJECT

Provide authorization to accept and implement a forthcoming Standard Agreement and future agreements and/or amendments from the California Department of Public Health to perform federal certifications and investigate current and aging long-term care complaints and entity-reported incidents for health care facilities in Los Angeles County.

IT IS RECOMMENDED THAT THE BOARD:

1. Delegate authority to the Interim Director of the Department of Public Health (DPH), or her designee, to accept and implement a forthcoming Standard Agreement (SA) between the California Department of Public Health (CDPH) and the DPH Health Facilities Inspection Division (HFID) to perform federal certifications of local health care facilities and investigate long-term care complaints and entity-reported incidents (ERIs) for the term of July 1, 2015 through June 30, 2018, at an amount estimated not to exceed \$42,000,000 per fiscal year (FY), subject to review and approval by County Counsel, and notification to your Board and the Chief Executive Office (CEO).
2. Delegate authority to the Interim Director of DPH, or her designee, to accept and execute future SAs and/or amendments from CDPH that are consistent with the requirements of the above-referenced SA that extend the term through June 30, 2021, at amounts determined by CDPH; reflect non-material and/or ministerial revisions to the SAs terms and conditions; allow for the rollover of

unspent funds and/or redirection/reallocation of funds through the contract change process; adjust the term of the SA through December 31, 2021; and/or provide an increase or decrease in funding up to 25 percent above or below each term's annual base maximum obligation, subject to review and approval by County Counsel, and notification to your Board and the CEO.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of Recommendation 1 will allow DPH to execute a forthcoming SA from CDPH to perform Tier 1 and Tier 2 federal workload activities, respond to complaints and ERIs, and investigate aged complaints and ERIs at long-term health care facilities located in Los Angeles County. Long term care facilities consist of skilled nursing homes; congregate living health facilities; and intermediate care facilities, including those for the developmentally disabled.

Tier 1 federal workload includes certification and life safety code surveys for skilled nursing facilities and intermediate care facilities for individuals with intellectual disabilities; recertification surveys for home health agencies; investigation of all complaints and ERIs prioritized as having a potential for immediate jeopardy; and surveys authorized/mandated by the federal Centers for Medicare and Medicaid Services (sample validation and complaint validation surveys) for general acute care hospitals, home health agencies, hospices, and ambulatory surgery centers.

Tier 2 federal workload includes targeted recertification surveys for end-stage renal dialysis clinics, hospices, rehabilitation clinics, ambulatory surgery centers, rural health clinics, transplant centers, and outpatient physical therapy providers and long-term care complaints and ERI investigations prioritized as non-immediate jeopardy, high and lower.

Performing Tier 3, Tier 4, and State licensing activities is not included in this SA.

Approval of Recommendation 2 will allow DPH to accept future SAs and/or amendments that are consistent with the requirements of the forthcoming award to extend and/or adjust the term of the award; reflect non-material and or ministerial revisions to terms and conditions; rollover unspent funds and/or redirect funds; and/or provide an increase or decrease in funding up to 25 percent above or below each term's annual base amount. This recommended action will enable DPH to accept SAs and/or amendments that adjust the project period up to six months beyond the original term, in those instances where there has been an unanticipated extension of the term to allow additional time to complete services and utilize funding. This authority is being requested to enhance DPH's efforts to expeditiously maximize grant revenue, consistent with Board Policy 4.070: Full Utilization of Grant Funds

Implementation of Strategic Plan Goals

The recommended actions support Goal 3, Integrated Services Delivery, of the County's Strategic Plan

FISCAL IMPACT/FINANCING

DPH will accept a forthcoming SA from CDPH for annual terms beginning July 1, 2015, through June 30, 2018, at amounts estimated not to exceed \$42,000,000 per FY.

Under prior SAs, certain County salaries, employee benefits, and operating expenses exceeded CDPH's itemized line item budget. On May 30, 2014, DPH submitted a request to CDPH for increased resources and funding. In the Governor's January Proposed Budget for FY 2015-16, an increase in expenditure of \$9.5 million from the Licensing & Certification Special Fund was authorized to augment the Los Angeles County contract to perform licensing and certification activities in Los Angeles County. The State proposal includes \$2.6 million to fully fund current positions at current Los Angeles County salary rates, and \$6.9 million to fund 32 additional Los Angeles County positions to enable the County to address long-term care facility complaints and entity-reported incidents, and investigate aging long-term care complaints and entity-reported incidents (Tier 1 and Tier 2 federal workload). The State proposal however, applied incorrect salary and employee benefit rates resulting in an underfunding of the proposed staffing by \$4.8 million.

As a result of continuing negotiations with CDPH, the Governor's 2015-16 May Revision proposes to increase the Los Angeles County contract by an additional \$5.3 million to fund: 1) a two percent salary increase that became effective in October 2014; 2) a two percent salary increase that became effective in April 2015; 3) an increase to the fringe benefit rate; 4) an increase to the indirect cost rate; 5) a productive workload adjustment based on 1,760 hours per full time equivalent position; and 6) consistency with State staff ratios for County field staff. The total projected contract amount is \$41,700,000.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

CDPH provides licensing and certification activities and complaint and ERI investigations for health care facilities in California. Since the 1960s, CDPH has contracted with Los Angeles County DPH to perform these functions in the approximately 2,500 health care facilities located in Los Angeles County. Services provided by DPH include inspections, consultation, verification of compliance with the licensing/certification programs, site surveys, issuance of facility notifications, and follow-up compliance visits prior to CDPH's issuance of licenses/certifications. However, CDPH retains responsibility for establishing program policies, standards, and disciplinary actions related to licensure, including denials, revocations, and suspensions.

On April 14, 2009, DPH accepted a SA from CDPH in the amount of \$79,121,160 for FYs 2008-09 through 2010-11 to continue to support DPH's HFID.

On July 5, 2011, your Board authorized DPH to accept a SA from CDPH in the amount of \$26,951,252 for FY 2011-12 to continue to support DPH's HFID in providing licensing, inspection, and certification compliance activities for local health facilities, clinics, and agencies/centers for which licensure is required under the California Health and Safety Code.

On June 6, 2012, your Board delegated authority to the Director of DPH to accept a SA from CDPH for the term of July 1, 2012 through June 30, 2013, at an amount estimated not to exceed \$31 million per year to continue to support DPH's HFID in providing licensing inspection and certification compliance activities for local health facilities, clinics, and agencies/centers for which licensure is required under the California Health and Safety Code. Your Board also delegated authority to the Director of DPH to accept and execute future SAs and/or amendments from CDPH that extend the term through June 30, 2016, at amounts estimated not to exceed \$31,000,000 per FY. The Director of DPH exercised this authority and accepted SA Number 12-10082 for the term July 1, 2012, through June 30, 2015, in the amount of \$80,853,756 (\$26,951,252 per FY).

During the past 18 months, DPH HFID has been the subject of audits and reviews by the Los

Angeles County Auditor-Controller and CDPH for unacceptable levels of performance. Although several improvements were made in response to recommendations, the severe shortage of staff and insufficient State funding were the underlying cause of the deficiencies. In response, DPH requested an increase in resources based on the November 2014 State staffing model for CDPH Licensing and Certification (L&C).

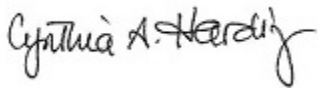
After discussions with legislators in Sacramento, testimony at several Assembly and Senate Budget Committee hearings, and contract negotiations with L&C, DPH obtained an additional \$5.3 million in the Governor's May Revision for FY 2015-16 and a total of 224 budgeted positions to perform Tier 1 and Tier 2 federal workload. DPH has developed an aggressive hiring plan, in consultation with the CEO, to have nursing evaluator candidates certified by Year 2 of the SA. In the past, it has taken candidates a full year to become certified and able to contribute to program productivity. DPH, in collaboration with the State, is working to streamline the training process so that candidates are certified in less than 12 months and able to contribute promptly to productivity. Further, DPH is exploring other areas to improve efficiencies, productivity, and quality in the services it provides to protect the residents of health care facilities in Los Angeles County.

Tier 1 and Tier 2 represent a percentage of the total State and federal workload. The forthcoming SA includes the negotiated Workload Plans for the reduced workload in each of the three (3) contract periods. Each year's Workload Plan increases productivity based on the available certified staff. In Year 1, DPH projects 65% productivity; in Year 2, 96% productivity; and in Year 3, 100% productivity.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommended actions will allow DPH to accept funds from CDPH to perform Tier 1 and Tier 2 federal workload to protect residents of health care facilities in Los Angeles County.

Respectfully submitted,



Cynthia A. Harding, M.P.H.

Interim Director

CAH:av
#03308

c: Interim Chief Executive Officer
County Counsel
Acting Executive Officer, Board of Supervisor